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Warren E. Rupf, Sheriff,
7 Contra Costa County and
Michael Costa, as an individual
8

9 UNITED STATES DISTRICT COURT

10 FOR THE

11 NORTHERN DISTRICT OF CALIFORNIA
(San Francisco/Oakland Division)
12

13 KRISTY LINKENHOKER

14 Plaintiff,

15 v.

16 WARREN E. RUPF, SHERIFF,
CONTRA COSTA COUNTY
SHERIFF'S DEPARTMENT, CONTRA
17 COSTA COUNTY, MICHAEL COSTA,
AS AN INDIVIDUAL,
18

19 Defendants.
20
21 _____/

Case. No.: C06-05432-EDL

ORDER ON

STIPULATED PROTECTIVE ORDER

22 1. PURPOSES AND LIMITATIONS

23 Disclosure and discovery activity in this action are likely to involve production of
24 confidential, proprietary, or private information for which special protection from public
25 disclosure and from use for any purpose other than prosecuting this litigation would be
26 warranted. County asserts confidential information consists of information that
27 has not been made public and which information may have the effect of jeopardizing
28 the health and safety of County personnel as well as interfering with the County's

1 operation of its correctional facilities. Accordingly, the parties hereby stipulate to and
2 petition the court to enter the following Stipulated Protective Order. The parties
3 acknowledge that this Order does not confer blanket protections on all disclosures or
4 responses to discovery and that the protection it affords extends only to the limited
5 information or items that are entitled under the applicable legal principles to treatment as
6 confidential. The parties further acknowledge, as set forth in Section 10, below, that this
7 Stipulated Protective Order creates no entitlement to file confidential information under
8 seal; Civil Local Rule 79-5 and 7-11 which sets forth the procedures that must be
9 followed and reflects the standards that will be applied when a party seeks permission
10 from the court to file material under seal.

11 2. DEFINITIONS

12 2.1 Party: any party to this action, including all of its officers, directors,
13 employees, consultants, retained experts, and outside counsel (and their support staff).

14 2.2 Disclosure or Discovery Material: all items or information, regardless of
15 the medium or manner generated, stored, or maintained (including, among other things,
16 testimony, transcripts, or tangible things) that are produced or generated in disclosures or
17 responses to discovery in this matter.

18 2.3 "Confidential" Information or Items: information (regardless of how
19 generated, stored or maintained) or tangible things that qualify for protection under
20 standards developed under F.R.Civ.P. 26(c).

21 2.4 "Highly Confidential - Review by Authorized Personnel Only" Information
22 or Items: extremely sensitive "Confidential Information or Items" whose disclosure to
23 another Party or nonparty would create a substantial risk of serious injury that could not
24 be avoided by less restrictive means.

25 2.5 Receiving Party: a Party that receives Disclosure or Discovery Material
26 from a Producing Party.

27 2.6 Producing Party: a Party or non-party that produces Disclosure or
28 Discovery Material in this action.

2.7. Designating Party: a Party or non-party that designates information or items that it produces in disclosures or in responses to discovery as "Confidential" or "Highly Confidential Review by Authorized Personnel Only."

2.8. Protected Material: any Disclosure or Discovery Material that is designated as "Confidential" or as "Highly Confidential - Review by Authorized Personnel Only."

2.9. Outside Counsel: attorneys who are not employees of a Party but who are retained to represent or advise a Party in this action.

2.10. House Counsel: attorneys who are employees of a Party.

2.11. Counsel (without qualifier): Outside Counsel and House Counsel (as well as their support staffs).

2.12. Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this action and who is not a past or a current employee of a Party or of a competitor of a Party's and who, at the time of retention, is not anticipated to become an employee of a Party or a competitor of a Party's. This definition includes a professional jury or trial consultant retained in connection with this litigation.

2.13. Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and their employees and subcontractors.

3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also any information copied or extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by parties or counsel to or in court or in other settings that might reveal Protected Material.

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1 4. DURATION

2 Even after the termination of this litigation, the confidentiality obligations
3 imposed by this Order shall remain in effect until a Designating Party agrees otherwise in
4 writing or a court order otherwise directs.

5 5. DESIGNATING PROTECTED MATERIAL

6 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
7 Party or non-party that designates information or items for protection under this Order
8 must take care to limit any such designation to specific material that qualifies under the
9 appropriate standards. A Designating Party must take care to designate for protection only
10 those parts of material, documents, items, or oral or written communications that qualify -
11 so that other portions of the material, documents, items, or communications for which
12 protection is not warranted are not swept unjustifiably within the ambit of this Order.
13 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
14 shown to be clearly unjustified, or that have been made for an improper purpose (e.g., to
15 unnecessarily encumber or retard the case development process, or to impose unnecessary
16 expenses and burdens on other parties), expose the Designating Party to sanctions. If it
17 comes to a Party's or a non-party's attention that information or items that it designated for
18 protection do not qualify for protection at all, or do not qualify for the level of protection
19 initially asserted, that Party or non-party must promptly notify all other parties that it is
20 withdrawing the mistaken designation.

21 5.2 Manner and Timing of Designations. Except as otherwise provided in this
22 Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise stipulated or
23 ordered, material that qualifies for protection under this Order must be clearly so
24 designated before the material is disclosed or produced. Designation in conformity with
25 this Order requires:

26 (a) for information in documentary form (apart from transcripts of
27 depositions or other pretrial or trial proceedings), that the Producing Party affix the legend
28 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - REVIEW BY AUTHORIZED

1 PERSONNEL ONLY" at the top of each page that contains protected material. If only a
2 portion or portions of the material on a page qualifies for protection, the Producing Party
3 also must clearly identify the protected portions) (e.g., by making appropriate markings in
4 the margins) and must specify, for each portion, the level of protection being asserted
5 (either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - REVIEW BY
6 AUTHORIZED PERSONNEL ONLY"). A Party or non-party that makes original
7 documents or materials available for inspection need not designate them for protection
8 until after the inspecting Party has indicated which material it would like copied and
9 produced. During the inspection and before the designation, all of the material made
10 available for inspection shall be deemed "HIGHLY CONFIDENTIAL - REVIEW BY
11 AUTHORIZED PERSONNEL ONLY." After the inspecting Party has identified the
12 documents it wants copied and produced, the Producing Party must determine which
13 documents, or portions thereof, qualify for protection under this Order, then, before
14 producing the specified documents, the Producing Party must affix the appropriate legend
15 ("CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - REVIEW BY AUTHORIZED
16 PERSONNEL ONLY") at the top of each page that contains Protected Material. If only a
17 portion or portions of the material on a page qualifies for protection, the Producing Party
18 also must clearly identify the protected portion(s) (e.g., by making appropriate markings
19 in the margins) and must specify, for each portion, the level of protection being asserted
20 (either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL REVIEW BY
21 AUTHORIZED PERSONNEL ONLY").

22 (b) for testimony given in deposition or in other pretrial or trial
23 proceedings, that the Party or non-party offering or sponsoring the testimony identify on
24 the record, before the close of the deposition, hearing, or other proceeding, all protected
25 testimony, and further specify any portions of the testimony that qualify as "HIGHLY
26 CONFIDENTIAL -- REVIEW BY AUTHORIZED PERSONNEL ONLY." When it is
27 impractical to identify separately each portion of testimony that is entitled to protection,
28 and when it appears that substantial portions of the testimony may qualify for protection,

1 the Party or non-party that sponsors, offers, or gives the testimony may invoke on the
2 record (before the deposition or proceeding is concluded) a right to have up to 20 days to
3 identify the specific portions of the testimony as to which protection is sought and to
4 specify the level of protection being asserted ("CONFIDENTIAL" or "HIGHLY
5 CONFIDENTIAL - REVIEW BY AUTHORIZED PERSONNEL ONLY"). Only those
6 portions of the testimony that are appropriately designated for protection within the 20
7 days shall be covered by the provisions of this Stipulated Protective Order. Transcript
8 pages containing Protected Material must be separately bound by the court reporter, who
9 must affix to the top of each such page the legend "CONFIDENTIAL" or "HIGHLY
10 CONFIDENTIAL - REVIEW BY AUTHORIZED PERSONNEL ONLY," as instructed
11 by the Party or nonparty offering or sponsoring the witness or presenting the testimony.

12 (c) for information produced in some form other than documentary, and
13 for any other tangible items, that the Producing Party affix in a prominent place on the
14 exterior of the container or containers in which the information or item is stored the
15 legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - REVIEW BY
16 AUTHORIZED PERSONNEL ONLY." If only portions of the information or item
17 warrant protection, the Producing Party, to the extent practicable, shall identify the
18 protected portions, specifying whether they qualify as "Confidential" or as "Highly
19 Confidential - Review by Authorized Personnel Only."

20 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
21 to designate qualified information or items as "Confidential" or "Highly Confidential -
22 Review by Authorized Personnel Only" does not, standing alone, waive the Designating
23 Party's right to secure protection under this Order for such material. If material is
24 appropriately designated as "Confidential" or "Highly Confidential - Review by
25 Authorized Personnel Only" after the material was initially produced, the Receiving Party,
26 on timely notification of the designation, must make reasonable efforts to assure that the
27 material is treated in accordance with the provisions of this Order.

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1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party's
3 confidentiality designation is necessary to avoid foreseeable substantial unfairness,
4 unnecessary economic burdens, or a later significant disruption or delay of the litigation, a
5 Party does not waive its right to challenge a confidentiality designation by electing not to
6 mount a challenge promptly after the original designation is disclosed.

7 6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating
8 Party's confidentiality designation must do so in good faith and must begin the process by
9 conferring directly (in voice to voice dialogue; other forms of communication are not
10 sufficient) with counsel for the Designating Party. In conferring, the challenging Party
11 must explain the basis for its belief that the confidentiality designation was not proper and
12 must give the Designating Party an opportunity to review the designated material, to
13 reconsider the circumstances, and, if no change in designation is offered, to explain the
14 basis for the chosen designation. A challenging Party may proceed to the next stage of
15 the challenge process only if it has engaged in this meet and confer process first.

16 6.3 Judicial Intervention. A Party that elects to press a challenge to a
17 confidentiality designation after considering the justification offered by the Designating
18 Party may file and serve a motion under Civil Local Rule 7 (and in compliance with Civil
19 Local Rule 79-5, if applicable) that identifies the challenged material and sets forth in
20 detail the basis for the challenge. Each such motion must be accompanied by a competent
21 declaration that affirms that the movant has complied with the meet and confer
22 requirements imposed in the preceding paragraph and that sets forth with specificity the
23 justification for the confidentiality designation that was given by the Designating Party in
24 the meet and confer dialogue. The burden of persuasion in any such challenge proceeding
25 shall be on the Designating Party. Until the court rules on the challenge, all parties shall
26 continue to afford the material in question the level of protection to which it is entitled
27 under the Producing Party's designation.

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1 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is
 3 disclosed or produced by another Party or by a non-Party in connection with this case only
 4 for prosecuting, defending, or attempting to settle this litigation. Such Protected Material
 5 may be disclosed only to the categories of persons and under the conditions described in
 6 this Order. When the litigation has been terminated, a Receiving Party must comply with
 7 the provisions of section 11, below (FINAL DISPOSITION). Protected Material must be
 8 stored and maintained by a Receiving Party at a location and in a secure manner that
 9 ensures that access is limited to the persons authorized under this Order.

10 7.2 Disclosure of "CONFIDENTIAL" Information Or Items. Unless otherwise
 11 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
 12 may disclose any information or item designated CONFIDENTIAL only to:

13 (a) the Receiving Party's Outside Counsel of record in this action, as
 14 well as employees of said Counsel to whom it is reasonably necessary to disclose the
 15 information for this litigation and who have signed the "Agreement to Be Bound by
 16 Protective Order" that is attached hereto as Exhibit A;

17 (b) the officers, directors, and employees (including House Counsel) of
 18 the Receiving Party to whom disclosure is reasonably necessary for this litigation and who
 19 have signed the "Agreement to Be Bound by Protective Order" (Exhibit A);

20 (c) experts (as defined in this Order) of the Receiving Party to whom
 21 disclosure is reasonably necessary for this litigation and who have signed the "Agreement
 22 to Be Bound by Protective Order" (Exhibit A);

23 (d) the Court and its personnel;

24 (e) court reporters, their staffs, and professional vendors to whom
 25 disclosure is reasonably necessary for this litigation and who have signed the "Agreement
 26 to Be Bound by Protective Order" (Exhibit A);

27 (f) during their depositions, witnesses in the action to whom disclosure
 28 is reasonably necessary and who have signed the "Agreement to Be Bound by Protective

Order" (Exhibit A). Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order.

(g) the author of the document or the original source of the information.

7.3 Disclosure of "HIGHLY CONFIDENTIAL - REVIEW BY AUTHORIZED PERSONNEL ONLY" Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "HIGHLY CONFIDENTIAL - REVIEW BY AUTHORIZED PERSONNEL ONLY" only to:

(a) the Receiving Party's Outside Counsel of record in this action, as well as employees of said Counsel to whom it is reasonably necessary to disclose the information for this litigation and who have signed the "Agreement to Be Bound by Protective Order" that is attached hereto as Exhibit A;

(b) Experts (as defined in this Order) (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A);

(c) the Court and its personnel;

(d) court reporters, their staffs, and professional vendors to whom disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A); and

(e) the author of the document or the original source of the information.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION.

If a Receiving Party is served with a subpoena or an order issued in other litigation that would compel disclosure of any information or items designated in this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - REVIEW BY AUTHORIZED PERSONNEL ONLY," the Receiving Party must so notify the Designating Party, in writing (by fax, if possible) immediately and in no event more than three court days after

1 receiving the subpoena or order. Such notification must include a copy of the subpoena or
2 court order. The Receiving Party also must immediately inform in writing the Party who
3 caused the subpoena or order to issue in the other litigation that some or all the material
4 covered by the subpoena or order is the subject of this Protective Order. In addition, the
5 Receiving Party must deliver a copy of this Stipulated Protective Order promptly to the
6 Party in the other action that caused the subpoena or order to issue. The purpose of
7 imposing these duties is to alert the interested parties to the existence of this Protective
8 Order and to afford the Designating Party in this case an opportunity to try to protect its
9 confidentiality interests in the court from which the subpoena or order issued. The
10 Designating Party shall bear the burdens and the expenses of seeking protection in that
11 court of its confidential material - and nothing in these provisions should be construed as
12 authorizing or encouraging a Receiving Party in this action to disobey a lawful directive
13 from another court.

14 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

15 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
16 Protected Material to any person or in any circumstance not authorized under this
17 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
18 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all
19 copies of the Protected Material, (c) inform the person or persons to whom unauthorized
20 disclosures were made of all the terms of this Order, and (d) request such person or
21 persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached
22 hereto as Exhibit A.

23 10. FILING PROTECTED MATERIAL.

24 Without written permission from the Designating Party or a court order secured
25 after appropriate notice to all interested persons, a Party may not file in the public record
26 in this action any Protected Material. A Party that seeks to file under seal any Protected
27 Material must comply with Civil Local Rule 79-5 and 7-11.

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1 11. FINAL DISPOSITION.

2 Unless otherwise ordered or agreed in writing by the Producing Party, within sixty
3 days after the final termination of this action, each Receiving Party must return all
4 Protected Material to the Producing Party. As used in this subdivision, "all Protected
5 Material" includes all copies, abstracts, compilations, summaries or any other form of
6 reproducing or capturing any of the Protected Material. With permission in writing from
7 the Designating Party, the Receiving Party may destroy some or all of the Protected
8 Material instead of returning it. Whether the Protected Material is returned or destroyed,
9 the Receiving Party must submit a written certification to the Producing Party (and, if not
10 the same person or entity, to the Designating Party) by the sixty day deadline that
11 identifies (by category, where appropriate) all the Protected Material that was returned or
12 destroyed and that affirms that the Receiving Party has not retained any copies, abstracts,
13 compilations, summaries or other forms of reproducing or capturing any of the Protected
14 Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy
15 of all pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney
16 work product, even if such materials contain Protected Material. Any such archival copies
17 that contain or constitute Protected Material remain subject to this Protective Order as set
18 forth in Section 4 (DURATION), above.

19 12. MISCELLANEOUS

20 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
21 person to seek its modification by the Court in the future.

22 12.2 Right to Assert Other Objections. By stipulating to the entry of this
23 Protective Order no Party waives any right it otherwise would have to object to disclosing
24 or producing any information or item on any ground not addressed in this Stipulated
25 Protective Order. Similarly, no Party waives any right to object on any ground to use in
26 evidence of any of the material covered by this Protective Order.

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THE NARAYAN LAW FIRM

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IT IS SO STIPULATED. THROUGH COUNSEL OF RECORD.

Date: February 13, 2007

By: Valerie O'Dell
Valerie O'Dell, Esq.
Attorney for Plaintiff
KRISTY LINKENHOKER

Date: February 13, 2007

By: Gregory M. Franchi
Gregory M. Franchi
Attorney for Defendant
Warren E. Rupf, Sheriff,
Contra Costa County and
Michael Costa, as an individual

ORDER

Pursuant to the foregoing Stipulation of the parties, and good cause of appearing therefore,

IT IS SO ORDERED.

DATED: February 26, 2007

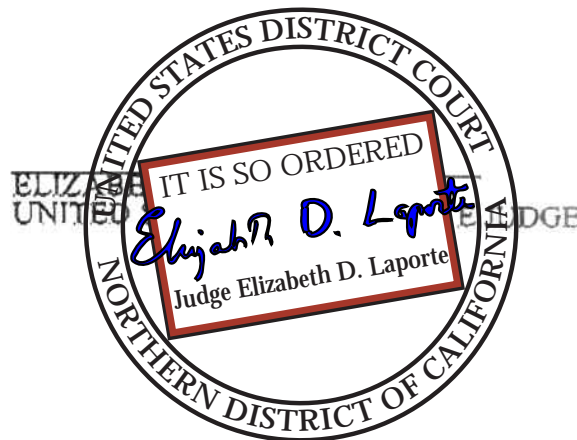


EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name],
 of _____ [print or type full address], declare
 under penalty of perjury that I have read in its entirety and understand the Stipulated
 Protective Order that was issued by the United States District Court for the Northern
 District of California on February ___, 2007 in the case of *Linkenhoker v. Warren E.*
Rupf, Sheriff, Contra Costa County Sheriff's Department, Contra Costa County, Michael
Costa, as an Individual.; Case No. **C06-05432-EDL**. I agree to comply with and to be
 bound by all the terms of this Stipulated Protective Order and I understand and
 acknowledge that failure to so comply could expose me to sanctions and punishment in
 the nature of contempt. I solemnly promise that I will not disclose in any manner any
 information or item that is subject to this Stipulated Protective Order to any person or
 entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for
 the Northern District of California for the purpose of enforcing the terms of this
 Stipulated Protective Order, even if such enforcement proceedings occur after termination
 of this action.

I hereby appoint _____ [print or type full name]
 of _____ [print or type full address and telephone number]
 as my California agent for service of process in connection with this action or any
 proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where shown and signed: _____

Printed name: _____

[Printed name]

Signature: _____

[signature]